

**COMMONWEALTH OF MASSACHUSETTS**

**SUFFOLK, ss.**

**Building Code Appeals Board  
Docket No. 08-534**

<b>YMCA of the North Shore, Inc.,</b>	)
<b>Appellant;</b>	)
	)
<b>v.</b>	)
	)
<b>City of Salem,</b>	)
<b>Appellee.</b>	)
	)

**BOARD'S RULING ON APPEAL**

**Procedural History**

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant has requested that the Board review Appellee's decision to deny the Appellant's application for a change to the plans for the permit to eliminate an enclosed stairway adjacent to the open grand stairway and use the open grand stairway as a third means of egress at the property located at One Sewall Street, Salem, MA.

By letter dated January 23, 2008, Thomas McGrath, AIA, Assistant Building Inspector for the City of Salem, ("Salem"), informed Appellant that a proposed change to the plans for the stairways violated 780 CMR §§ 713.3, Exception 2 and 1014.11 and denied the change to the plans on the building permit.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR 1.02 et. seq.; and, the Board convened a public hearing on February 26, 2008 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and testifying at the hearing were Kevin Hastings of R.W. Sullivan, Inc., on behalf of Appellant and Thomas McGrath, AIA, Assistant Building Inspector for the City of Salem on behalf of Appellee.

**Exhibits in Evidence**

Exhibit 1: State Building Code Appeals Board Appeal Application Form, dated January 28, 2008, including supporting materials and plans.

### **Findings of Fact**

Based on the credited testimony of the witnesses, the Board finds these facts:

1. The building is a new two-story structure of Type 2-C construction with approximately 105,000 gross square feet for assembly (A), business (B) and educational (E) uses, with a basement of approximately 2100 square feet.
2. The calculated occupant load is more than 500.
3. The building is fully equipped with an automatic sprinkler system.
4. The two other egress stairways are fully enclosed.
5. The Appellee supports the granting of the variance.

### **Decision**

Pursuant to M.G.L. c. 143, § 100, the Board has the authority to decide appeals by those “aggrieved by an interpretation, order, requirement, direction or failure to act by any state or local agency or any person or state or local agency charged with the administration or enforcement of the state building code.”

The issue is whether the Appellant should be granted a variance from the provisions of 780 CMR §§ 713.3, Exception 2 and 1014.11 to allow a change to the plans as permitted to eliminate an enclosed stairway and use an open grand stairway as the third egress. For the following reasons, the Board **ALLOWS** the appeal.

The Board noted that the Appellee supported the variance and that under the draft Seventh Edition of the Massachusetts Building Code, Section 1019.1, all three egress stairways in a two story building equipped with an automatic sprinkler system would be allowed to be open for all of the planned use groups of the building.

The Chair entertained a motion to grant the variance from the provisions of 780 CMR §§ 713.3, Exception 2 and 1014.11 and allow the issuance of the change to the plans for the permit to

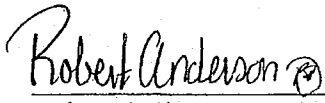
eliminate an enclosed stairway and use the open grand stairway as the third egress. The Board voted as indicated below.

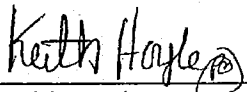
X..... **Granted** ..... Denied ..... Rendered Interpretation

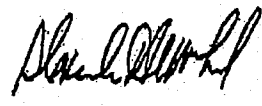
.....Granted with conditions ..... Dismissed

The vote was:

X.....**Unanimous** ..... Majority

  
Robert Anderson

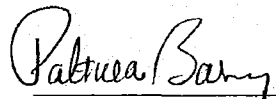
  
Keith Hoyle

  
Sandy MacLeod

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: June 19, 2008

  
Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$5.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator  
State Building Code Appeals Board  
BBRS/Department of Public Safety  
One Ashburton  
Place – Room 1301  
Boston, MA 02108